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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MATTHEW DONOHUE,
Plaintiff,

v.

CAPELLA UNIVERSITY, LLC, in its
official capacity; and DOE
DEFENDANTS 1-20, in their official
and individual capacity,

Defendants.

Case No. 2:22-cv-5634-CCC-JBC

***DOCUMENT FILED
ELECTRONICALLY***

**PLAINTIFF COUNSEL’S MOTION TO WITHDRAW
AS COUNSEL FOR PLAINTIFF MATTHEW DONOHUE**

NOW COMES the undersigned Plaintiff Counsel and the law firm of The Law Office of Keith Altman, and for their Motion to Withdraw as attorneys in this matter, state as follows:

Pursuant to Local Rule 102.1 attorneys Keith Altman and Solomon M. Radner of The Law Office of Keith Altman respectfully request that the Court grant their leave to withdraw as counsel for Plaintiff Matthew Donohue (“Plaintiff”). Attorneys may withdraw only upon order of the Court. USDC DNJ L. Civ. R. 102.1.

WHEREFORE, Keith Altman, Solomon M. Radner, and The Law Office of Keith Altman respectfully request that the Court grant this motion and permit their withdrawal as counsel effective immediately.

Dated: November 16, 2023

Respectfully submitted,

/s/ Keith Altman

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**BRIEF IN SUPPORT OF PLAINTIFF COUNSEL’S MOTION TO
WITHDRAW AS COUNSEL FOR PLAINTIFF MATTHEW DONOHUE**

The Law Office of Keith Altman and undersigned Counsel rely on and incorporate the facts and law outlined in the preceding Motion as if fully set forth herein.

Pursuant to Local Rule 102.1 attorneys Keith Altman and Solomon M. Radner of The Law Office of Keith Altman respectfully request that the Court grant their leave to withdraw as counsel for Plaintiff Matthew Donohue ("Plaintiff"). Attorneys may withdraw only upon order of the Court. USDC DNJ L. Civ. R. 102.1.

As grounds therefore, attorneys Keith Altman and Solmon M. Radner state that there has been a breakdown in the attorney-client relationship which makes this motion necessary. Undersigned counsels submit that the attorney-client relationship is wholly and irreparably broken but are unable to go into more detail in the instant motion, due to the instant filing being public record, based on the applicable ethical rules. However, further explanation could be provided in chambers should the court deem it necessary.

New Jersey's Rules of Professional Conduct allow an attorney to withdraw if he is discharged or if there is a breakdown in the attorney-client relationship. N.J. Rules of Prof'l Conduct R. 1.16. Even if counsel seeking to withdraw demonstrates "good cause" as defined in RPC 1.16(b), a decision with respect to withdrawal remains entirely within the discretion of the Court. N.J. Rules of Prof'l Conduct R. 1.16(c); *N.C.W.C., Inc. v. Platinum Plus Auto Prot. Inc.*, Civil Action No. 22-1909 (GC) (RLS), 2023 U.S. Dist. LEXIS 168525, at *2 (D.N.J. Aug. 28, 2023). When evaluating a petition to withdraw, the Court has established certain criteria for consideration: 1) the reason withdrawal is sought; 2) the prejudice withdrawal may

cause to other litigants; 3) the harm withdrawal may cause to the administration of justice; and 4) the degree to which withdrawal may delay the resolution of the case. *In re Avant-Garde Computing, Inc. Sec. Litig.*, 1989 U.S. Dist. LEXIS 10483, 1989 WL 103625, slip op. (D.N.J.Sept. 5 1989); *Haines v. Liggett Group*, 814 F. Supp. 414, 423 (D.N.J. 1993); *United States ex rel. Cherry Hill Convalescent Ctr. v. Healthcare Rehab Sys.*, 994 F. Supp. 244, 252-53 (D.N.J. 1997).

No such prejudice exists in the current matter. Defendants have a motion to dismiss pending, which has been fully briefed by both parties. Should this Honorable Court deny Defendant's motion, Plaintiff maintains ample time to secure new counsel prior to continuation of discovery.

In accordance with Local Rule 102.1 counsel state that the circumstances in this case satisfy the criteria permitting withdrawal because the relief requested will not impose any material adverse effect, let alone hardship, on Plaintiff as all pending motions have been fully briefed and discovery will remain ongoing following the disposition of a ruling in Plaintiff's favor on the pending motion.

In accordance with the local rules, Plaintiff Counsel sought concurrence of this motion from Defendant's Counsel. Defendant's Counsel has expressed their concurrence with the relief sought herein.

WHEREFORE, for the reasons set forth above, the undersigned Plaintiff Counsel, Keith Altman, Solomon M. Radner and The Law Office of Keith Altman

respectfully request that this Honorable Court grant their Motion to Withdraw as Counsel in light of the mounting conflicts of interest and breakdown in attorney-client communications.

Date: November 16, 2023

Respectfully submitted,

/s/ Keith Altman

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2023, I served the foregoing document upon all parties by filing this document on this court's CM/ECF electronic filing system which will send a true copy to all counsel of record. Further, I hereby certify that, pursuant to Fed. R. Civ. P. 5(b)(2)(E) Plaintiff Matthew Donohue was served with a copy of the document via US Postal Service and electronic mail.

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/s/ Solomon M. Radner
Attorney for Plaintiff